

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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BANITA B. SAFFORE,

Case No. 21-CV-2578 (ECT/JFD)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

UNITED STATES OF AMERICA;  
FEDERAL BUREAU OF PRISONS; and  
RIVERA LABOY TRUCKING  
COMPANY,

Defendants.

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In an Order dated January 6, 2022, this Court directed plaintiff Banita B. Saffore, a prisoner, to submit an initial partial filing fee of at least \$66.32. (Dkt. No. 5 (citing 28 U.S.C. § 1915(b).) Saffore was given 21 days to submit the required initial partial filing fee, failing which the Court would recommend that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Saffore has not yet paid the required initial partial filing fee. In fact, Saffore has not communicated with the Court about this case at all since commencing this action and submitting her application to proceed *in forma pauperis*. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a

plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute and that judgment be entered accordingly.

Dated: February 10, 2022

s/ John F. Docherty  
John F. Docherty  
United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).